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STAFF SUBMITTAL

for the meeting of the
COMMISSION ON WATER RESOURCE MANAGEMENT

October 18, 2010
Honolulu, Oahu

REQUEST FOR CLARIFICATION ON WATER USE PERMIT
Iao Tunnel (Puako) (Well No. 5330-02), TMK (2) 3-3-034:034, WUP No. 691
Existing Use of 0.100 mgd
Iao Ground Water Management Area, Maui

APPLICANT:

Hawaiian Commercial and Sugar Co.
P.O. Box 266
Puunene, HI 96784

LANDOWNER:

Same

SUMMARY OF REQUEST:

Staff requests clarification of a statement in the Commission's Decision and Order in CCH-MA06-01 to award Hawaiian Commercial and Sugar Co. (HC&S) 0.100 mgd from Iao Tunnel (Puako), Well No. 5330-02. The award anticipates a pending verification of the actual quantity of water being consumed under the existing use, with final determination to be made within five years of the filing of the water use permit application.

LOCATION MAP: See Exhibit 1

BACKGROUND:

February 27, 2004 The Commission on Water Resource Management (Commission) received a completed application for an estimated 0.100 mgd from the Iao Tunnel (Puako), Well No. 5330-02 as acknowledged and circulated for review March 30, 2004.

- February 2, 2006 The final session of the public hearing on the diked, high-level well and tunnel sources was held, before the end of which verbal requests were made for a contested case hearing. These were followed by written requests by parties with standing. The captioned Iao Tunnel was among those affected.
- February 15, 2006 The Commission initiated a contested case hearing (CCH) for Iao high-level source water use permit applications, and specified that the petition to amend the interim instream flow standards of the four Wailuku District streams (Na Wai Eha) would be included in the CCH.
- February 26, 2009 Time expired on a five-year period following the accepted complete application filed for this source.
- June 10, 2010 The Commission issued its Decision and Order for the combined contested case hearing, including the award statement staff now seeks to clarify.

ANALYSIS/ISSUES:

CCH-MA06-01 Decision and Order Part III.B.2 awards a water use permit for diked, high-level tunnel source Iao Tunnel (Puako) (Well No. 5330-02) in the amount of 0.100 mgd. The full statement reads as follows:

"HC&S is awarded a limited water use permit of 1-year duration for 0.1 mgd from Iao Tunnel (well No. 5330-02), subject to the standard conditions for a ground water permit. HC&S must verify the actual quantity of water being consumed under the existing use. The Commission may continue to issue successive one-year limited water use permits, if the current permits expire before the actual quantity of water being consumed is verified. A final determination shall be made within five years of the filing of HC&S's WUPA. In the final determination, the Commission may increase or reduce the amount initially granted to HC&S."

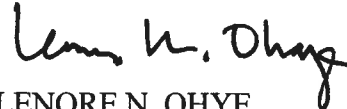
DISCUSSION:

Staff is implementing the Decision and Order by issuing permits as framed therein. Staff believes the D&O is clear that verification is to be provided by HC&S, and that final determination will be made by the Commission, by way of a submittal containing verification, discussion, and recommendation by staff. As the five-year deadline for making a final determination on verifying the actual amount being consumed under this permit had already expired by the time it was approved, it cannot be implemented as written. Staff recommends that an alternative date be selected as the beginning of the five-year period for verification.

RECOMMENDATION:

Staff recommends that the five-year period begin at the date of permit approval, namely June 10, 2010. The five-year period would therefore expire June 9, 2015.

Respectfully submitted,



LENORE N. OHYE
Acting Deputy Director

Exhibit 1 (Location Map)

APPROVED FOR SUBMITTAL:



LAURA H. THIELEN
Chairperson

